UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte MARY I. HAGEMAN and ELMER M. JOHNSON

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Appeal 2006-2971
Application 10/015,256
Technology Center 2100

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Decided: October 24, 2007

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Before KENNETH W. HAIRSTON, LANCE LEONARD BARRY, and
JAY P. LUCAS, *Administrative Patent Judges.*

LUCAS, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 to 21.

INVENTION

Appellants' invention relates to a method, system, and computer
program product performing a method described by the Appellants as
follows:

Specifically, with reference to the claimed subject matter recited in Appellants' independent claims 1 and 15 and illustrated in the flowchart of Figure 2 (with reference to the components in Figure 1), Appellants' invention provides a method for tracking custom computer application development profiles in a data processing system (and a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform a method for tracking custom computer application development profiles in a data processing system), wherein the method comprises creating the profiles with a first database tool 24 (described on page 8, lines 8-19 of the specification as originally filed); gathering requirements of the profiles with a second database tool 26 (described on page 8, lines 8-19 of the specification as originally filed); tracking modifications of the profiles with a third database tool 28 (described on page 8, lines 8-19 of the specification as originally filed); allowing security and authorization users access to the profiles (via a Security and Authorization Team Interface 25 of Figure 1 and described on page 8, lines 8-19 of the specification as originally filed); and determining whether breaches in security of the data processing system 20 has occurred in each phase of development of a computer application program via the Security and Authorization Profile Change Request Database 28 of Figure 1 and described on page 11, lines 19-23 of the specification as originally filed.

(Brief, page 3)

Claim 1 is representative of the claimed invention and is reproduced as follows:

1. A method for tracking custom computer application development profiles in a data processing system, said method comprising:

creating said profiles with a first database tool;

gathering requirements of said profiles with a second database tool;

tracking modifications of said profiles with a third database tool;

allowing security and authorization users access to said profiles; and

determining whether breaches in security of said data processing system have occurred in each phase of development of a computer application program.

REFERENCES

The references relied on by the Examiner are as follows:

Sziklai	US 6,341,287 B1	Jan. 22, 2002

Java Web Start 1.4.2 Release Notes, http://java.sun.com/j2se/1.4.2/docs/guide/jws/relnotes.html (last visited Sep. 7, 2006).

It is observed that the Java Release Notes are cited to show an inherent characteristic of the teaching of the primary reference, Sziklai, under an exception to the usual reliance on a single reference in a rejection under 35 U.S.C. § 102. See *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir 1991). The date of a document cited for that purpose may have a later date than the application's effective filing date. See *In re Wilson*, 311 F.2d 266, 135 USPQ 442 (CCPA 1962).

REJECTION AT ISSUE

Claims 1 to 21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Sziklai et al (Sziklai).

Throughout our opinion, we make references to the Appellants' Briefs, and to the Examiner's Answer for the respective details thereof.[1]

OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of the Appellants and the Examiner, for the reasons stated *infra*, we reverse the Examiner's rejection of claims 1 to 21 under 35 U.S.C. § 102.

I.   Whether the Rejection of Claims 1 to 21 Under 35 U.S.C. § 102(e) is proper?

It is our view, after consideration of the record before us, that the disclosure of Sziklai does <u>not</u> fully meet the invention as recited in claims 1 to 21. Accordingly, we reverse.

"It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim". See <u>In re King</u>, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and <u>Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.</u>, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

Sziklai presents an integrated system for managing changes in the computer support system for business activities central to that enterprise. The Sziklai system does contain many of the claimed elements, but a line by line analysis indicates that a number of the claim limitations are not fairly read on that reference.

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[1] Appellants filed an Appeal Brief on 9/1/2005. The Examiner mailed an Examiner's Answer on 11/18/2005.

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Claim 1 contains the following limitations:

1. A method for tracking custom computer application development profiles in a data processing system, said method comprising:

creating said profiles with a first database tool;

gathering requirements of said profiles with a second database tool;

tracking modifications of said profiles with a third database tool;

allowing security and authorization users access to said profiles; and

determining whether breaches in security of said data processing system has [have]² occurred in each phase of development of a computer application program.

Sziklai's system addresses the application of a myriad of regulations of various types in a software-based business enterprise, and provides a method and system for tracking the changes, and applying them to the underlying business so the latter can conform to the requirements of said regulations. Though not exactly analogous to the claimed method for tracking custom computer application development profiles, the teachings of Sziklai include information that can be read on the application development profiles in some respects.

Appellants argue that "[i]ndependent claims 1 and 15 contain features which are patentably distinguishable from the prior art references of record, and in particular Sziklai" (Appeal Brief, page 9). Specifically, claims 1 and

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² Grammatical correction was proposed in Appellants' unentered amendment filed on March 1, 2005.

15 provide, in part, "… determining whether breaches in security of said data processing system has [have]^2 occurred in each phase of development of a computer application program." Examiner proposes that Sziklai discloses a Java security model, and presents a background Java Web Start 1.4.2 Release Note that is read as preventing unauthorized tampering, including the automatic detection of breaches in security (Examiner's Answer, page 10).

We do not find such a teaching in either the reference Sziklai, or the background document Java Release Note. The Release Note mentions JREs. A JRE is a Java Runtime Environment, the operating code that will support the running of JAWS, which is a type of speech module that can be used in various JAVA applications. The quoted section of the Release Note indicates "Every time JAWS is run, it automatically detects all 'registered' JREs on the computer." The teaching that JAWS automatically detects its runtime environment, for example, to adjust its parameters so it can operate properly in that runtime environment, does not mean that it detects breaches in the security of the data processing system whenever new phases of the computer application program are developed. It seems to indicate only that the JAWS module adjusts to various installed runtime environments. Thus the premise that the Java Release Note makes Sziklai's mention of a Java security model anticipate the claim limitation is unfounded.

Consider the reading of the Sziklai reference on the claim more closely. In rejecting Claim 1, when discussing the limitation under consideration, the Examiner points us to the following sections of the patent (Examiner's Answer, page 4): "See abstract; column 9, lines 10-16; column 14, lines 50-62; column 21, lines 65-67; column 33, lines 5-10; column 34,

lines 1-4)." The abstract contains only a general statement concerning handling changes. Column 9 mentions "security concerns" but not the breaches at each phase of development. Column 14 addresses tampering by using non-authenticated code during upgrades, but does not contain a teaching of determining whether breaches in the security have occurred. Column 21 presents an edit module of an Administration Menu that discusses user groups, privileges and other security concerns, but not the indication of a breach as claimed. Columns 33 and 34 likewise have only general references to security.

We thus do not find a teaching in the cited reference of the limitation in claim 1 of "… determining whether breaches in security of said data processing system has [have]^2 occurred in each phase of development of a computer application program." Independent claims 8 and 15 contain parallel language to the quoted language of claim 1, and are subject to the same reasoning cited above. Since a key limitation of the independent claims has not been anticipated by the reference, the rejection of the dependent claims is likewise insufficient. Therefore, we will <u>not</u> sustain the Examiner's rejection under 35 U.S.C. § 102(e).

CONCLUSION

In view of the foregoing discussion, we do <u>not</u> sustain the rejection under 35 U.S.C. § 102(e) of claims 1 to 21.

<u>REVERSED</u>

tdl/gvw

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